

REMARKS

Claims 1-8 are all the claims pending in the application. Claims 1-3 and 7 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0180714 A1 (hereinafter, "Duret"). Claims 4-6 and 8 are allowable.

Rejection of claims 1-3 and 7 under §102(e) over Duret

Applicant submits that claim 1 is patentable over Duret because Duret fails to disclose the claimed magnetic field detection unit, the acceleration detection unit, and the control unit, as recited in claim 1.

In the Final Office Action, the Examiner does not provide any response to our arguments that Duret fails to disclose the claimed i) acceleration detection unit mounted in the pen-shaped body, for detecting respective axial direction accelerations of the movement of the pen-shaped body and ii) a control unit for calculating absolute coordinates of the movement of the pen-shaped body from the tilt angle measured at the magnetic field detection unit and the acceleration measured at the acceleration detection unit. Applicant requests the Examiner to address how Duret discloses these features of claim 1.

Applicant maintains that Duret fails to disclose a magnetic field detection unit mounted in a pen-shaped body, **for detecting a tilt angle of the pen-shaped body based on a movement of the pen-shaped body**, as previously noted in the Remarks in the Response of May 7, 2007.

In the section of Duret cited by the Examiner in the Final Office Action, paragraph 0027, lines 3-5, there is no mention of the magnetometer 8 detecting a tilt angle of the pen 4 based on a movement of the pen 4.

Although the Examiner appears to state that the functional features of the magnetic field detection unit are not given patentable weight, Applicant submits that:

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). **There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper.** In re Swinehart, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.

MPEP § 2173.05(g) (emphasis added).

With the above, Applicant submits that the Examiner must consider the functional recitations in claim 1. Since all the recitations of claim 1 are not disclosed by Duret, Applicant submits that claim 1 is patentable.

For at least the above reasons, claim 1 is patentable. Claims 2 and 3, which depend from claim 1, are patentable for at least the reasons submitted for claim 1.

Claim 7 is patentable for reasons similar to those submitted for claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/ Seok-Won Stuart Lee /

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Seok-Won Stuart Lee
Limited Recognition No. L0212

Date: August 1, 2007